

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: SEPTEMBER 5, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-22100 - APPLICANT/OWNER: CS4015, LLC**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE AUGUST 1, 2007 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

**\*\* CONDITIONS \*\***

The Planning Commission (7-0 vote) and staff recommend DENIAL.

**Planning and Development**

1. Approval of and conformance to the Conditions of Approval for a Site Development Plan Review (SDR-21992) and a Variance (VAR-21993) shall be required.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance to allow a 27.2 foot high retail building to be 20 feet from residential property where residential adjacency standards require an 81.6 foot setback on 2.00 acres adjacent to the southwest corner of Lone Mountain Road and Cliff Shadows Parkway.

In addition, the applicant is requesting a Site Development Plan Review (SDR-21992) for a proposed 9,663 square foot commercial shopping center with a 3,500 square foot tavern and 3,000 square foot general retail store with landscape waivers for the perimeter buffer width and landscape fingers in the parking lot area. Additionally, a Variance (VAR-21993) has been requested for parking. These deviations from standards indicate that the applicant is intending to overbuild the site; therefore, staff recommends denial.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
06/14/99	The City Council approved a Rezoning (Z-0024-99) to PD (Planned Development) on adjacent properties as part of a larger request. The Planning Commission and staff recommended approval.
11/01/00	The City Council approved a Rezoning (Z-0067-99) from U (Undeveloped) [PCD (Planned Community Development) General Plan Designation to PD (Planned Development) on the subject site as part of a larger request. The Planning Commission and staff recommended denial.
09/18/02	The City Council approved a Major Modification [Z-0024-99(44)] to the Lone Mountain West Master Development Plan to add approximately five acres to the Plan and to designate the northern half as Village Commercial and the southern half as Medium-Low Density Residential; a Special Use Permit (U-0081-02) for the proposed sale of Packaged Liquor for off-premise consumption; a Special Use Permit (U-0082-02) for proposed Gasoline Sales; a Special Use Permit (U-0083-02) for a proposed Tavern, and a Site Development Plan Review [Z-0067-99(2)] for the tavern and convenience store on the subject site. Planning Commission and staff recommended approval. The approvals expired September 18, 2004.
09/20/06	The City Council approved a request for an Extension of Time (EOT-15961) of an approved Special Use Permit (U-0083-02) that allowed a tavern; an Extension of Time (EOT-15962) of an approved Special Use Permit (U-0082-02) that allowed gasoline sales in conjunction with a proposed convenience store and an Extension of Time (EOT-15963) of an approved Special Use Permit (U-0081-02) that allowed the sale of packaged liquor for off-premise consumption in conjunction with a proposed convenience store adjacent to the southwest corner of Lone Mountain Road and Cliff Shadows Parkway

06/28/07	<p>The Planning Commission recommended denial of companion items VAR-21993 and SDR-21993 concurrently with this application.</p> <p>The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #41/ss).</p>
<b>Pre-Application Meeting</b>	
04/25/07	<p>A pre-application meeting was held with the applicant. The following items were discussed with the applicant:</p> <ul style="list-style-type: none"> <li>• Lone Mountain West Development Standards</li> <li>• Site Development Review</li> <li>• Variance for Residential Adjacency</li> <li>• Variance for Parking</li> <li>• Remapping to one parcel</li> <li>• Previous SUP approvals (EOT-15961 – Tavern, EOT-15962 – Gasoline Sales in conjunction with a Convenience Store and EOT-15963 – Packaged Liquor for Off Premise Consumption).</li> <li>• Submittal requirements for an SDR and two Variances.</li> </ul>

<b>Field Check</b>	
05/23/07	<p>A field check was made on the site. There is a definite slope on the site slanting from west to east. The perimeter wall on the west portion of the site is of a height that residential will be looking down upon the site; therefore, residential adjacency is not an issue to the residential to the west.</p>

<b>Details of Application Request</b>	
<b>Site Area</b>	
Gross Acres	2.00

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	VC (Village Commercial)	PD (Planned Development)
North	Undeveloped	PCD (Planned Community Development)	U (Undeveloped) [PCD (Planned Community Development) General Plan Designation]

South	Single Family Residential	ML (Medium-Low Density Residential)	PD (Planned Development)
East	Apartments	MLA (Medium-Low Density Attached Residential)	R-PD12 (Residential Planned Development – 12 Units per Acre)
West	Single Family Residential	ML (Medium-Low Density Residential)	PD (Planned Development)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>			
Lone Mountain West	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>	X		
PD (Planned Development) District	X		Y
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

## DEVELOPMENT STANDARDS

*Pursuant to The Lone Mountain West Master Plan and Title 19.08, the following Development Standards apply to the subject proposal:*

<b>Standards</b>	<b>Required</b>	<b>Provided</b>	<b>Compliance</b>
Min. Lot Size	N/A	103,790 SF	N/A
Min. Lot Width	100 Feet	295 Feet	Y
Min. Setbacks			
• Front	20 Feet	20 Feet	Y
• Side	10 Feet	10 Feet	Y
• Corner	15 Feet	15 Feet	Y
• Rear	20 Feet	20 Feet	Y
Max. Lot Coverage	30 %	16%	Y
Trash Enclosure	Roofed and gated	Roofed and gated	Y
Loading Zone	Screened	Screened	Y
Mech. Equipment	Screened	Screened	Y
Pedestrian Path from street	Y	N	N

***Review the following from Title 19.08.060***

<b><i>Residential Adjacency Standards</i></b>	<b><i>Required/Allowed</i></b>	<b><i>Provided</i></b>	<b><i>Compliance</i></b>
3:1 proximity slope	81.6 Feet	27.2 Feet	N*
Trash Enclosure	50 Feet	120 Feet	Y

***\*A Variance (VAR-22100) for residential adjacency has been requested.***

***Pursuant to Title 19.12, the following Landscape Standards apply:***

<b><i>Landscaping and Open Space Standards</i></b>				
<b><i>Standards</i></b>	<b><i>Required</i></b>		<b><i>Provided</i></b>	<b><i>Compliance</i></b>
	<b><i>Ratio</i></b>	<b><i>Trees</i></b>		
Parking Area	1 Trees/ 6 Spaces	23 Trees	8 Trees	N*
Buffer: Min. Trees adjacent to residential	1 Tree/20 Linear Feet	29 Trees	25 Trees	N*
Min. Trees adjacent to Commercial	1 Tree/30 Linear Feet	16 Trees	14 Trees	N*
<b>TOTAL</b>		68 Trees	47 Trees	N*
Min. Zone Width (R.O.W.)	15 Feet		4 Feet	N*
Min. Zone Width (Interior)	8 Feet		5 Feet	N*
Wall Height	8 Feet		N/A	N/A

***\*Waivers of Title 19.12 Landscaping Standards have been requested.***

***Pursuant to Title 19.10, the following parking standards apply:***

Parking Requirement								
Use	Gross Floor Area or Number of Units	Required			Provided			Compliance
		Parking Ratio	Parking		Parking			
			Regular	Handi-capped	Regular	Compact	Handi-capped	
Tavern (Public Area)	2,500 SF	1/50	50					
(Service Area)	1,000 SF	1/200	10					
Retail	12,633	1/175	73					
SubTotal			129	5	83	35	5	N*
TOTAL			134		123			N*
Loading Spaces			2		2			Y
Percent Deviation			7%					N*

***\*A Variance (VAR-21993) for parking has been requested.***

Waivers		
Request	Requirement	Staff Recommendation
Parking – Landscape Fingers	1 per 6 parking spaces	Denial
Waivers of Title 19.12 Landscape Standards to allow zero foot perimeter landscape buffer on a portion of the north property line where 15 feet is required, a three-foot perimeter landscape buffer on a portion of the east property line where 15 feet is required, and a four-foot perimeter landscape buffer on a portion of the west property line where eight feet is required.	North – 15 feet is required East – 15 feet is required South – 8 feet is required West – 8 feet is required	Denial

## ANALYSIS

The proposed commercial L shaped building on the southwest corner of the parcel stands 27.2 tall in height with single family residential property to the south and west. Pursuant to Title 19.08.060 Residential Adjacency Standards, a 27.2 tall building adjacent to residential “protected” property requires a setback of 81.6 feet. The building is set back 20 feet from the residential property to the south. Therefore, the proposal does not meet the required setback for a 27.2 foot tall building and requires a Variance.

As a note, the residential property to the west is not subject to Title 19.08.060 Residential Adjacency Standards as the grade of the residential property exceeds the height of the commercial parcel by over twenty feet. A Variance (VAR-21993) for parking has been submitted as a companion item with this application. As designed, the project requires several deviations from standards, including landscape waivers for the perimeter buffer width and landscape fingers in the parking lot area. These deviations from standards indicate that the applicant is intending to overbuild the site; therefore, staff recommends denial.

## FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship. An alternative design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 1

**ASSEMBLY DISTRICT** 4

**SENATE DISTRICT** 9

**NOTICES MAILED** 283 by City Clerk

**APPROVALS** 2

**PROTESTS** 8